

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BASKIN-ROBBINS FRANCHISED SHOPS LLC
and BR IP HOLDER LLC ,

Plaintiffs,

ORDER

-against-

06-CV-5914 (SLT) (KAM)

GEROMI ENTERPRISES MGR, INC.,

Defendant.

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TOWNES, United States District Judge:

Plaintiffs, Baskin-Robbins Franchised Shops LLC and BR IP Holder LLC, commenced this action against a Baskin-Robbins franchisee, Geromi Enterprises MGR, Inc. (a New York corporation), by filing a Complaint in this Court on November 1, 2006. On November 3, 2006, Plaintiffs served a copy of a Summons and the Complaint on the New York Secretary of State as agent of Defendant pursuant to N.Y. Bus. Corp. Law § 306. Defendant, however, never filed an answer to Plaintiffs' Complaint.

Plaintiffs having now moved for a default judgment and Defendant having failed to respond to that motion, it is hereby

ORDERED that Plaintiffs' motion for a default judgment is granted, and it is hereby declared that the Franchise Agreement between Baskin-Robbins USA, Co., and Defendant dated October 10, 2001, which authorized Defendant to operate a Baskin-Robbins franchise at 1404 Fulton Street, Brooklyn, New York, is terminated as of October 30, 2006. Although the Franchise Agreement is no longer in force and effect, Defendant shall comply with its post-termination obligations under that Franchise Agreement, and it is further

ORDERED that Defendant, its employees, agents, servants and all persons acting on Defendant's behalf are hereby enjoined and restrained from using the trademarks, trade name and trade dress of Plaintiffs and from holding themselves out to the public as, and from operating as, a Baskin-Robbins franchisee, and that Defendant shall remove all signs, logos, names and other indicia that its retail establishment at 1404 Fulton Street, Brooklyn, is or was a Baskin-Robbins ice cream store, and it is further

ORDERED that this case is hereby referred to Magistrate Judge Kiyo A. Matsumoto pursuant to 28 U.S.C. § 636(b)(1)(B) to conduct a hearing concerning the amount of damages incurred by Plaintiffs as a result of Defendant's breaches of the Franchise Agreement, and to issue proposed findings of fact and a recommendation as to the amount of damages, pre-judgment interest, costs and attorney's fees that Plaintiffs should be awarded in this action. It is further

ORDERED that Plaintiffs' counsel shall serve a copy of this Order upon Defendant by first-class mail, return receipt requested, on or before April 27, 2007.

SO ORDERED.

/s/
SANDRA L. TOWNES
United States District Judge

Dated: Brooklyn, New York
April 24, 2007